

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 20-2070V**

TIMOTHY SISNEROS,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 15, 2023

*Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioner.*

*Benjamin Patrick Warder, U.S. Department of Justice, Washington, DC, for Respondent.*

**DECISION AWARDING DAMAGES<sup>1</sup>**

On December 30, 2020, Timothy Sisneros filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccination he received on September 30, 2019. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 17, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for his SIRVA. On September 13, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$59,288.35, comprised of \$58,750.00 in pain and suffering and \$538.35 in past unreimbursable expenses, and \$2,535.97 to satisfy a State of New Mexico Medicaid lien. Proffer at 2-3. In the Proffer, Respondent represented that Petitioner agrees with the proffered award.

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<sup>1</sup> Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

*Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award the following:**

- **A lump sum payment of \$59,288.35, comprised of \$58,750.00 in pain and suffering and \$538.35 in past unreimbursable expenses, in the form of a check payable to Petitioner.**
- **A lump sum payment of \$2,535.97 in the form of a check jointly payable to Petitioner and Presbyterian Health Plan Subrogation, P.O. Box 27489, Albuquerque, NM 87135-7489**

These amounts together represent compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

On December 30, 2020, Timothy Sisneros (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act”), alleging that he suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”), as defined in the Vaccine Injury Table, following administration of an influenza vaccine that he received on September 30, 2019. ECF No. 1 at 1. On November 10, 2022, the Secretary of Health and Human Services (“respondent”) filed a combined motion to dismiss and Rule 4(c) report, in which he argued that petitioner had failed to establish a claim for compensation for SIRVA under the Vaccine Act, and that this case should be dismissed. ECF No. 24 at 1, 8-10. On April 17, 2023, the Chief Special Master issued his Findings of Fact and Ruling on Entitlement, in which he found that petitioner was entitled to compensation. ECF No. 29 at 2, 7.

**I. Items of Compensation**

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$58,750.00 in pain and suffering.

*See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that he incurred past unreimbursable expenses pertaining to his vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$538.35. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

C. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy a State of New Mexico Medicaid lien in the amount of \$2,535.97, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action that the State of New Mexico may have against any individual as a result of any Medicaid payments that the State of New Mexico has made to or on behalf of petitioner from the date of his eligibility for benefits through the date of judgment in this case as a result of his alleged vaccine-related injury suffered on or about September 30, 2019, under Title XIX of the Social Security Act.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made through two lump sum payments as described below:

- 1) A lump sum payment of \$59,288.35 in the form of a check payable to petitioner.<sup>1</sup>
- 2) A lump sum payment of \$2,535.97, representing compensation for satisfaction of the State of New Mexico Medicaid lien, payable jointly to petitioner and to:

Presbyterian Health Plan Subrogation  
P.O. Box 27489  
Albuquerque, NM 87125-7489

Petitioner agrees to endorse this payment to Presbyterian Health Plan Subrogation for satisfaction of the Medicaid lien.

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

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Director  
Torts Branch, Civil Division

HEATHER L. PEARLMAN  
Deputy Director  
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/s/ Benjamin P. Warder  
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DATE: September 13, 2023

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.